

**BEFORE THE DIVISION OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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**IN THE MATTER OF THE  
INFORMAL ASSESSMENT  
CONFERENCE for NOTICE OF  
VIOLATION AND PROPOSED  
ASSESSMENT; VIOLATION No.  
N10096, CASTLE VALLEY  
MINING, LLC, BEAR CANYON  
MINE, C/015/025, CARBON  
COUNTY, UTAH**

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**FINDINGS of FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

**CAUSE NO. C/015/025**

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On July 12, 2012, the Division of Oil, Gas and Mining (Division) held an Informal Assessment Conference as provided for by R645-401-700 Utah Administrative Code (2011) in response to the written request by Castle Valley Mining, LLC (Castle Valley) to review the fact of violation and fine assessment for Notice of Violation 10096 (NOV), issued to it on May 24, 2012 for operations at the Bear Canyon Mine, C/015/025, Carbon County, Utah.

**ISSUES**

The Division in its Notice of Violation found that rules R645-301-731.100, 120 and R645-301-731.212 and 223 had been violated. These rules require that surface and groundwater monitoring be conducted according to the plan approved under R645-301-731.200 et seq, and that complete records of water monitoring data be submitted every 3 months. The Division assessed a fine of \$352.00.

**PARTIES**

Dana Dean, Associate Director Division of Oil, Gas and Mining served as the hearing officer. The hearing was conducted as an informal adjudicative proceeding. April A. Abate, Division Hydrologist presented the facts and arguments in support of the Notice of Violation, Joe C. Helfrich, Assessment Officer, presented the arguments concerning the determination of the assessment amount. Messrs. Corey Heaps and Jaren Jorgensen represented Castle Valley Mining, LLC and presented the position and arguments on its behalf.

No recording or transcript of the conference was made.

## **FINDINGS OF FACT**

Based on the information provided at the conference, the statements presented by those speaking, and on information in the files of the Division the following Findings and Conclusions were made.

1. The Request for an informal assessment conference was delivered to the Division on June 19, 2012.
2. Notice of the Informal Assessment Conference was provided as required on July 2, 2012.
3. Upon review of the fourth quarter water monitoring data provided by Castle Valley for the Bear Canyon Mine, April Abate found it to be deficient for the following reasons:
  - a. Castle Valley failed to perform quarterly sampling duties within the month specified in the Mining and Reclamation Plan (MRP), Chapter 7 Table 7-14. Fourth quarter sampling activities are required in October, not December of each year.
  - b. Castle Valley failed to provide a complete set of operational parameter data for spring sample SBC-14 during the fourth quarter 2011 sampling event.
4. Because this is not the first time that Castle Valley failed to collect water in the proper month or provide a full set of data for SBC-14, Ms. Abate wrote the NOV.
5. Mr. Heaps explained that Castle Valley desires to do everything according to the MRP and to stay in compliance with all of the Coal Rules.
6. Mr. Jorgensen explained that he had been open and responsive to everything the Division has communicated to him. He admitted that he had not been sampling according the requirements in the MRP, but explained that it was not purposeful. He said that he now understands the sampling requirements and will diligently follow them. He also suggested that there may be a glitch in our water quality database that caused some of the parameters for SBC-14 not to show up. The Division has been unable to repeat the error, but April is willing to work with him over the next couple of quarters to ensure that the data is properly entered the first time.
7. After some discussion, Castle Valley decided not contest the fact of the violation, but did ask that the points assessed be reconsidered.
8. Both sides indicated that there is a cordial, respectful, communicative relationship between the Division and Castle Valley. They are both also willing to work together to avoid these problems in the future.

### **CONCLUSIONS OF LAW**

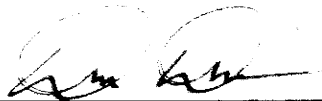
1. The approved water-monitoring plan for the Bear Canyon Mine was not followed for the fourth quarter of 2011 and a full set of data was not provided for SBC-14.
2. The fact of the violation should stand.
3. Based on Mr. Jorgensen's testimony, and the actions he is taking to prevent future hindrances, the negligence points should be lowered from 12 to 10, and the good faith points should be increased from 8 to 11.

### **ORDER**

NOW THEREFORE, it is ordered that:

1. The fact of the violation is upheld.
2. The proposed assessment of \$352.00 is now finalized at \$264.00.

SO DETERMINED AND ORDERED this 12<sup>th</sup> day of July, 2012



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Dana Dean, P.E. Associate Director  
Division of Oil, Gas and Mining

UTAH DIVISION OF OIL, GAS AND MINING  
WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES

COMPANY: Castle Valley Mining, LLC  
PERMIT: C/015/025  
VIOLATION: 10096

ASSESSMENT CONFERENCE OFFICER: Dana Dean

	Proposed Assessment	Final Assessment
(1) History/Previous Violations	<u>0</u>	<u>0</u>
(2) Seriousness	<u>12</u>	<u>12</u>
(3) Negligence	<u>12</u>	<u>10</u>
(4) Good Faith	<u>-8</u>	<u>-11</u>
Total Points	<u>16</u>	<u>11</u>

TOTAL ASSESSED FINE \$264.00